

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**LAKE CHARLES DIVISION**

**GREGORY MCMAHON** : **DOCKET NO. 05-1040**

**VS.** : **JUDGE MINALDI**

**ZURICH AMERICAN INSURANCE** : **MAGISTRATE JUDGE WILSON**  
**COMPANY**

**REPORT AND RECOMMENDATION**

Before the court is plaintiff's motion to remand [doc. # 8].<sup>1</sup> This matter was removed to federal court on the basis of diversity jurisdiction. 28 U.S.C. § 1332. The motion to remand alleges that plaintiff's claims do not exceed the requisite threshold amount for the exercise of diversity jurisdiction (\$75,000+). Removing defendant does not oppose remand.<sup>2</sup>

Accordingly, the court finds that the amount in controversy does not exceed the minimum amount required to invoke federal diversity jurisdiction. *DeAguilar v. Boeing Co.*, 47 F.3d 1404 (5th Cir. 1995). Subject matter jurisdiction is lacking and remand is required. 28 U.S.C. § 1447(c). Accordingly,

IT IS RECOMMENDED that plaintiff's motion to remand [doc. # 8] be GRANTED.

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court.

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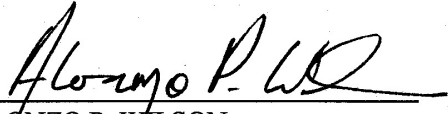
<sup>1</sup> The motion has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A).

<sup>2</sup> Defense counsel so notified court staff by telephone.

Timely objections will be considered by the district judge prior to a final ruling.

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.**

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 28<sup>th</sup> day of July, 2005.

  
ALONZO P. WILSON  
UNITED STATES MAGISTRATE JUDGE